

PRELIMINARY DRAFT (Revised 09/14/06)

OF THE REPORT TO
Governor John Hoeven and the
North Dakota Interim Legislative Committee
On Education Finance and the
North Dakota Legislative Assembly
Responding to Executive Order 2006-01

FROM THE NORTH DAKOTA COMMISSION
ON EDUCATION IMPROVEMENT

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Grand Forks, North Dakota

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INTRODUCTION

On December 16, 2003, an Amended Complaint was filed by nine school districts in North Dakota requesting that the state's public school finance system be declared in violation of the North Dakota Constitution. The nine districts were Williston, Grafton, Devils Lake, Valley City, United, Surrey, Hatton, Thompson and Larimore. The state has denied and continues to deny the Plaintiff's claims.

On January 10, 2006, the parties in opposition each determined independently that it is desirable for them to stay the Action and provide the North Dakota Legislative Assembly the opportunity to settle, compromise, and resolve this Action on certain terms and conditions. Consequently the parties executed an "Agreement to Stay Litigation", which is attached as Exhibit A.

The first condition accepted by both parties was that the Governor would issue an Executive Order (attached as Exhibit B) creating a North Dakota Commission on Education Improvement. The Commission is made up of the Governor, the Superintendent of Public Instruction, four school district administrators, and four legislators. Three non-voting members are included to provide input and represent the state's teachers, school boards, and school administrators. The Commission is instructed to prepare a report that provides recommendations on how to improve the current system of delivering and financing elementary and secondary education, including the equitable distribution of state education funds and addressing the adequacy of education funding. The 2006 report and subsequent work is intended to provide the basis for proposed legislation to be put before the Legislative Assembly for consideration in both the 2007 and 2009 Sessions.

The second condition accepted by both parties is that the Executive Budget for the 2007 legislative session will include at least \$60 million of additional state funds for elementary and secondary education programs over the amount appropriated by the 2005 Legislative Assembly (see page 11 for a table of baseline state funds for elementary and secondary education programs, as agreed upon by the Commission on Education Improvement). The amount appropriated by the 2005 Legislative Assembly is considered to be \$675,583,095 in state funds for education programs. Therefore, the 2007 Legislative Assembly will be asked to consider a school finance package of no less than \$735,583,095 for the 2007-2009 biennium that also contains substantial improvements in the equity of school funding across the state. If the 2007 Legislative Assembly appropriates at least \$60,000,000 in new state funds, and if the Legislative Assembly resolves to adopt the Commission on Education Improvement as a vehicle for achieving further improvements in school finance, then the plaintiffs have agreed to dismiss their lawsuit against the State and may not reinitiate any lawsuit until after the completion of the 2009 legislative session.

It is envisioned that the question of the adequacy of school funding will continue to be addressed by the Commission during the 2007-2009 interim period between sessions. The Commission is expected to make further recommendations to the 2009 Legislative Assembly.

It is important to keep in mind that the assignment given to the Commission is to address questions of the adequacy and equitable distribution of state funds to school districts. General education policy questions such as governance, school district size, and the general prioritization of education programs are not the mission of the Commission

unless they are determined to have a direct effect on the equity or adequacy of school funding. All recommendations made in this report will attempt to clarify this connection.

Executive Summary

TERMINOLOGY K-12 FUNDING FORMULAS

- | | |
|--|-------------------------------|
| 1) The amount paid out for each weighted pupil unit. | Per Student Payment |
| 2) The total amount of state funds paid to a school district under the main funding formula. | State Aid Payment |
| 3) The ADM figure that is the sum of grades 1-12 ADM, kindergarten student count times .50, and the pre-school special education equivalent student count. | Base ADM |
| 4) The amount added to the base factor of 1.00 for each ADM that reflects all or part of the added cost of educating the qualifying student in each category. | Weighting Factor |
| 5) The ADM figure resulting from adding the base ADM with all of the additional cost adjusted ADM equivalents. | Weighted ADM |
| 6) The factor that adjusts for the relative costs of varying school size. | School Size Weighting Factor |
| 7) The student payment units determined by multiplying the Weighted ADM times the School Size Weighting Factor. | Weighted Pupil Units |
| 8) The special payment to school districts to offset the deficiency of revenues caused by inadequate taxable valuation net of other revenues. | Equity Payment |
| 9) Students requiring remedial English Language Learning or students requiring extra English instruction. | ELL Students |
| 10) Extended School Year program | ESY program |
| 11) Taxable valuation of real property plus theoretical valuation created by dividing 75% of outside income (mineral and tuition income) by the property tax rate of the district. | Imputed Taxable Valuation |
| 12) The deficit amount by which a district's imputed taxable valuation per student is below the statewide average imputed valuation per student. | Missing Valuation per student |

- 13) The total amount by which a district's taxable valuation is short of the target taxable valuation – calculated as the Missing Valuation per student times the district's Base ADM. Total Valuation Deficiency

K-12 EDUCATION MAIN FUNDING FORMULA

Background:

In the 1969 session of the North Dakota Legislature, lawmakers created the first substantial statewide program to provide significant funding for schools. It was called the Foundation Aid program and provided a uniform per pupil payment to be distributed directly to school districts. Initially the only weighting factors applied were to reflect varying costs due to school size and grade levels.

Over the course of many legislative sessions since 1969 many other programs have been enacted that layer additional funds on top of the per pupil payment. Among the programs that have never been fully incorporated into a master formula are the following: supplemental equity payments; special education for students with disabilities (distributed both by Average Daily Membership and as contract reimbursements for severe cases); Pre-school special education; Summer School; Migrant Summer School; English Language Learners; special education ESY or Extended School Year; supervision of Home Educated students; Alternative High Schools; Small and Isolated Schools; Out-of-State reciprocity; Per Teacher Payments; Technology incentive programs; grants to education associations under Joint Powers Agreements (JPA's); Career and Technical Education; and Transportation grants.

Principles for Change:

- 1) The proliferation of programs over time has created a severe lack of simplicity and transparency as people try to understand how much financial support is

actually accruing to a given school district as it works to carry out its mission of providing all students with a quality education. Only a new comprehensive formula can provide this simplicity and transparency.

- 2) Given that the best system ensures that the state funding follows the student wherever the student goes, the best overall method of distribution is still the per student payment, namely a base payment of 1.00 times each regular full-time student.
- 3) Given that the cost of education varies by type of student and by the requirements of each state-supported program, the per student payment should be adjusted by adding weighting factors that reflect all added costs from all circumstances.
- 4) School Size Weighting Factors should be applied to the Weighted ADM units to compensate for the extra costs of operating smaller, less efficient schools.
- 5) As public education evolves and students become more mobile due to open enrollment, alternative programs, and lifestyle trends, a distribution system whereby the Weighted ADM follows the student is most flexible and best suited to accommodate future changes.
- 6) The greater the proportion of total funds provided through a cost-adjusted or “Weighted” payment for each student, the greater amount of equity provided overall.
- 7) The total distribution from the main funding formula should be adjusted for local taxing effort. In other words, school districts that choose to adopt a General

- Fund levy well below the statewide average levy, whether they are a higher valuation or a lower valuation district, should have their state distribution reduced as an incentive to encourage adequate local taxing effort.
- 8) The base payment from the main funding formula should be adjusted for school districts that have taxable valuations per student significantly in excess of the statewide average. This differs from a mill levy deduct where reductions are made for the first dollar by which a district's valuation per student exceeds the state average. Under this "High Valuation Adjustment," only districts that enjoy valuations per student well above the state average are affected.
 - 9) In order to achieve formula improvements in a transition biennium that will evolve into a more adequacy-based formula, minimum and maximum allowable growth totals in state funds should be established for all districts not receiving a new equity payment. This will provide a gradual transition to new payment levels under the new revised formula when substantial new state funds are provided again for the 2009-2011 biennium.
 - 10) In addition to allocating funds in the fairest possible way, the new formula should optimize the results of this distribution by giving school districts the maximum possible discretion in delivering the optimum local educational program.

BASELINE STATE FUNDS APPROPRIATED FOR K-12 EDUCATION PROGRAMS

Biennium	Foundation Aid Per Student	Teacher Payments	Tuition Apportionment	Supplemental Payments	Special Education	JPA Incentives	Vocational Education	Total
1991-93	\$344,707,785	\$0	\$47,225,456	\$0	\$29,164,376	\$0	\$7,553,960	\$428,651,577
1993-95	360,919,892	0	46,017,000	0	33,500,000	0	7,490,845	447,927,737
1995-97	396,506,035	0	46,017,000	2,225,000	36,850,000	0	7,155,620	488,753,655
1997-99	429,587,939	0	49,273,144	3,100,000	40,550,000	0	7,700,506	530,211,589
1999-2001	443,006,259	0	53,528,217	3,100,000	46,600,000	0	8,570,234	554,804,710
2001-03	437,971,648	35,036,000	67,239,025	2,200,000	49,898,695	0	9,355,328	601,700,696
2003-05	454,579,990 ¹	51,854,000	69,495,371	5,000,000	49,898,695	0	9,473,009	640,301,065
2005-07	484,053,759 ¹	50,912,120	71,600,000	5,000,000	52,500,000	1,000,000	10,517,216	675,583,095

COMMISSION ON EDUCATION IMPROVEMENT RECOMMENDATION

	Per Student Payments		Equity Payments	Other Equity Adjustments	Committed Special Education	JPA Incentives	Vocational Education	Total
2007-09	\$667,165,879	^{1,2}	\$37,000,000	\$0	\$16,900,000	\$2,000,000	\$12,517,216	\$735,583,095

¹ Appropriation includes a contingent distribution for educational associations (JPA's) if unspent foundation aid monies are available at the end of the biennium: \$250,000 in 2003-05, \$1 million in 2005-07, \$1 million proposed in 2007-09

² Comprehensive per student payments to include amounts previously distributed as per student foundation aid (\$484,053,759), teacher compensation payments (\$50,912,120), tuition apportionment (\$71,600,000), special education ADM payments (\$36,600,000), supplemental payments (\$5,000,000), new funds for per student payments (\$39,000,000), less net equity offsets of \$20,000,000.

Recommendations

The average annual Per Student Payment is determined by dividing the total funds available in the biennium for per student payments (\$667,165,879) by the number 2 for each year's amount and then dividing by the number of Weighted Pupil Units statewide (109,652). This amount is estimated to be an average of \$3,042 per WPU. The \$667,165,879 is made up of \$484,053,759 previously distributed as Foundation Aid, \$19,000,000 in new funds for per student payments (\$16,000,000 plus \$3,000,000 new Special Ed. ADM), \$50,912,120 previously distributed as Per Teacher Payments, \$71,600,000 previously distributed from Tuition Apportionment, \$5,000,000 previously distributed as Supplemental Payments, and \$36,600,000 previously distributed as Special Ed ADM.

The base per student payment is increased by \$20,500,000 million over the 2005-07 biennium. Per Teacher Payments are now included in the Per Student Payments because the original purpose of Per Teacher Payments was an incentive to increase teacher salaries statewide in the 2001-03 biennium, and now no longer applies. When the Governor proposed to increase Teacher Payments again in the 2003-05 biennium this program was rejected by the legislature in favor of a provision requiring 70% of new state funds to go to teacher compensation. The Commission supports the policy that 70% of new state funds from Per Student Payments be earmarked for increases in teacher compensation. At this time, the Per Teacher Payment represents less than 10% of distributions with no incentive value due to the static level of the payments, so it is only logical to consolidate this payment into the new comprehensive formula.

The Commission undertook an analysis of the legal status of Tuition Apportionment distributions and determined to its own satisfaction that the legislature has the authority to distribute these funds in any manner that it deems fair and reasonable to the schoolchildren of North Dakota. Therefore the Commission recommends that the legislative assembly make these distributions on the basis of the new comprehensive funding formula in order to achieve the greatest equity possible and for all the reasons cited in “Principles for Change” in the Main Formula section on page 7. This recommendation assumes that the legislative assembly intends to reserve these funds for children attending public school and will not support the direct payment inclusion of private school students.

Special Education distributions on the ADM side of the formula should be merged with the general education funds allocated by ADM for all the reasons described in the Special Education Section. The amount provided is the result of multiplying the estimated weighting factor of .067 times the Base ADM of all school districts and then times the Per Student Payment in order to arrive at the desired appropriation. The target of \$39,600,000 represents an increase of \$3,000,000 over the amount appropriated for the 2005-2007 biennium.

Before reading the explanation of the new formula, refer to page 7 for definitions of the terminology used. Also, follow the number key in the “Illustration for New Main Funding Formula” on page 15.

Illustration for New Main Funding Formula
Prepared for the ND Commission on Education Improvement
(Based on Grafton School District Prior Year Data Rounded)
Revised

<u>Key</u>	<u>Description</u>	<u>ADM</u>	<u>Weighting Factor</u>	<u>Weighted ADM</u>
1	Grades 1-12 ADM (based on prior year-end)	828.00	1.00	828.00
2	Kindergarten ADM	60.00	.50	30.00
3	PK Special Ed ADM	24.00	1.00	24.00
4	Base ADM			882.00
5	Special Ed ADM (non-contract)	882.00	0.067	59.09
6	PK Special Ed ADM	24.00	0.17	4.08
7	English Language Learners (Levels 1 & 2)	20.00	0.23	4.60
8	Special Ed ESY	10.00	1.00	10.00
9	Alternative High School	0.00	0.25	0.00
10	Summer School	16.00	0.60	9.60
11	Migrant Summer School	50.00	1.00	50.00
12	Home-Schooled (Supervision)	6.00	0.50	3.00
13	At risk – Poverty (illustration)	20.00	0.00	0.00
14	At risk academically – low percentile in AYP (illustration)	20.00	0.00	0.00
15a	Small Isolated (Additional ADM for minimum)	0.00	1.00	0.00
15b	Small Isolated (Cost factor on actual and phantom)	0.00	0.25	0.00
16	Out-of-State Reciprocity	0.00	0.20	0.00
17	Weighted ADM Total			1,022.37
18	School Size Weighting Factor		x 1.01	
	Weighted Pupil Units			1,032.59
19	Per Student Payment		x \$3,022	
20	Total State Aid Payment (Minimum of 2% growth and maximum of 7%)			\$3,120,486.90
21	170 Mill Minimum Offset			0
22	High Valuation Offset			0

Key #1 – Grades 1-12 ADM

For simplicity, establish the prior year's closing ADM, Average Daily Membership for Grades 1-12, as the basis for the formula.

Key #2 – Kindergarten ADM

Add to the figure in #1 for full-time regular ADM a number calculated by multiplying the number of Kindergarten students times .50 to reflect the current state policy of funding half-day Kindergarten only.

Key #3 – PK Special Ed ADM

Add to the figure in #1 the number of special education Pre-school students attending the equivalent of 2 ½ hours per day for 4 days, or 10 hours per week.

Key #4 – Base ADM

The total of numbers 1, 2, and 3 should be referred to as the "Base ADM."

Key #5 – Weighted Special Ed ADM

Add to the Base ADM figure a cost-adjusted Special Ed ADM figure for special education students not covered by the contract portion of special education funding, calculated by multiplying the Base ADM times .067 to reflect the current state policy for funds distributed to school districts for discretionary use in addressing special education needs.

Key #6 – Weighted PK Special Ed ADM

Add to the Base ADM figure a cost-adjusted PK Special Ed ADM figure calculated by multiplying the number of special education preschool and kindergarten students in #3 times .17 to reflect the current state policy for subsidizing these students.

Key #7 – English Language Learners

Add to the Base ADM figure a cost-adjusted ADM figure calculated by multiplying the number of English Language Learner students testing eligible for levels 1 and 2 in the 2006

English Language Proficiency Assessment selected by DPI times .23 to reflect the current state policy for subsidizing these students.

Key #8 – Special Ed ESY

Add to the Base ADM a cost-adjusted ADM figure calculated by multiplying the special education ADM in the ESY or Extended School Year program times 1.00 to reflect the current state policy for subsidizing these students.

Key #9 – Alternative High School

Add to the Base ADM a cost-adjusted ADM figure calculated by multiplying the full time equivalent students enrolled in an Alternative High School in the district times .25 to reflect the current state policy of recognizing these high schools as separate small schools with their own weighting factors.

Key #10 – Summer School

Add to the Base ADM a cost-adjusted ADM figure calculated by multiplying the full time equivalent students enrolled in regular Summer School times .60 to reflect the state's current policy for subsidizing these students.

Key #11 – Migrant Summer School

Add to the Base ADM a cost-adjusted ADM figure calculated by multiplying the full time equivalent students enrolled in Migrant Summer School times 1.00 to reflect the state's current policy for subsidizing these students.

Key #12 – Home-Schooled

Add to the Base ADM a cost-adjusted ADM figure calculated by multiplying the number of students in Home School settings that are supervised by the district times .50 to reflect the state's current subsidy for supervising these students.

Key #13 – At risk - Poverty

Add to the Base ADM a cost-adjusted ADM figure calculated by multiplying the number of students who test below the 5th percentile in Reading or Math in the latest AYP assessment times .00 to reflect the current subsidy for educating these students (illustration only).

Key #14 – At risk academically

Add to the Base ADM a cost-adjusted ADM figure calculated by multiplying the number of students who are considered At Risk due to the effects of a background in poverty times .00 to reflect the current subsidy for educating these students (illustration only).

Key #15a – Small Isolated (Additional ADM for minimum)

Add to the Base ADM the number of additional “phantom” ADM allowed under the state’s definition of Small and Isolated Schools to arrive at the minimum ADM allowed.

Key #15b – Small Isolated (Cost factor on actual and phantom)

Add to the Base ADM a cost-adjusted ADM figure calculated by multiplying the number of qualifying students in a “Small and Isolated” school district including both the actual ADM in #4 and the “phantom” ADM in #15a times .25 to reflect the current state policy for subsidizing these students.

Key #16 – Out-of-State Reciprocity

Add to the Base ADM a cost-adjusted ADM Figure calculated by multiplying the number of students being tuitioned out under a reciprocity agreement to a school outside of North Dakota times .20 to reflect the current state policy for subsidizing these students.

Key #17 – Weighted ADM

The total derived from steps 1-16 is the “Weighted ADM” for the school district.

Key #18 – School Size Weighting Factor

The final step is to multiply the Weighted ADM times the School Size Weighting Factor (see new factors on page 25) to arrive at the Weighted Pupil Units for the district.

Key #19 – Per Student Payment

The amount determined by dividing the funds available by the Weighted Pupil Units.

Key #20 – Total State Aid Payment (Minimum and maximum growth rate)

“Formula State Aid” is defined as all state funds distributed to a district through the Department of Public Instruction budget except the following amounts: transportation, state responsible excess cost reimbursement, education associations, prior year education funding adjustments, and special education contract funds.

In order to calculate a minimum and maximum payment to school districts, it is necessary to establish a baseline dollar amount per Weighted Pupil Unit from which increases can be calculated. This “Baseline Funding per Weighted Pupil Unit” will be the Formula State Aid payments to the district for the 2006-2007 school year divided by the Weighted Pupil Units developed under the new formula for the 2007-2008 school year.

For the 2007-2008 school year, the Formula State Aid per Weighted Pupil Unit for any district should be no less than 102% of the Baseline Funding per Weighted Pupil Unit (including any equity payment). For the 2008-2009 school year and beyond, the Formula State Aid per Weighted Pupil Unit (including any equity payment) will not decline from 102% of the Baseline Funding per Weighted Pupil Unit. It is anticipated that the Per Student Payment will increase approximately \$40-\$100 from the first year to the second year of the biennium.

For the 2007-2008 school year, the maximum allowable increase in Formula State Aid per Weighted Pupil Unit under the new formula (not counting any equity payment) is 107% of the Baseline Funding per Weighted Pupil Unit. For the 2008-2009 school year, the maximum allowable increase in Formula State Aid per Weighted Pupil Unit (not counting

any equity payment) will be 109% of the Baseline Funding per Weighted Pupil Unit. For ensuing years, assuming the formula was not changed, the maximum allowable Formula State Aid per Weighted Pupil Unit should be allowed to increase by two additional percentage points each year.

Key #21 – 170 Mill Minimum Offset

Any school district levying less than 170 General Fund mills should have its State Aid Payment reduced. The amount is calculated as the number of mills below 170 times the total taxable valuation of the school district.

Key #22 – High Valuation Offset

For districts that have an Imputed Taxable Valuation per student in excess of 1.5 times the statewide average, adjust the base payment by an amount equal to the district's total excess valuation times 185 mills.

Legislation Required

- 1) Revise sections relating to determining ADM, weighting factors, payments for Pre-school special education, special education distributions, English language learners, Extended School Year, payments to Alternative high schools, payments for summer school, payments for Migrant summer school, and Home School supervision to reflect the changes proposed.
- 2) Revise the Section regarding State Aid to education to reflect the changes proposed. Eliminate the requirement for completing the teacher compensation claim form.

- 3) Revise the Section regarding Tuition Apportionment to reflect the revised distribution methodology. Eliminate the requirement for a school census, since it is no longer needed.
- 4) Adopt a new section to require a reduction in state funding for low taxing effort, i.e. mill levies below 170 mills.
- 5) Adopt a new section requiring an offset to the main formula payment for High Valuation districts that have an Imputed Taxable Valuation per student more than 1.5 times the state average.
- 6) Adopt a new section appointing the Commission on Education Improvement to study the question of “Adequacy in K-12 Education Funding” during the 2007-09 interim and requiring them to report regularly to the interim legislative committee selected by the Legislative Council.

**K-12 Education
Main Funding Formula
School Size Weighting Factor**

Background

Since the inception of the Foundation Aid program, the legislature has used weighting factors to adjust state aid for the varying costs of operating a small school versus a large school. For many years the legislature defined these weighting factors in state statute for each of the various grade levels and for each category of school size.

As time passed, it became a challenge to adjust the weighting factors in statute to reflect changing costs of providing education because each factor developed a constituency that opposed any changes. Finally, Governor George Sinner proposed using the actual five-year average cost of education in each grade and size category as a fair method of establishing weighting factors. Although the proposal was not initially adopted, it gradually was blended together with the old factors until school districts arrived at 100% of the five-year average cost of education as the basis for weighting factors for the 2004-05 school year.

Recent efforts have attempted to provide better equity by reducing the number of factor categories. Distortion continued to exist because the term “cost” is defined by the Department of Public Instruction as the amount of spending per student actually taking place. In certain categories high spending schools with ample resources were adding to the so-called “cost” of education.

Principles for Change

- 1) In order to achieve a system of weighting factors that reflects the true cost of education by school district size, the pool of peer school districts must be large

enough to establish an accurate average “cost” of education based on actual five-year data and that eliminates aberrations within the peer group.

- 2) Each school district should have a single weighting factor that reflects the relative cost of education for that district. This is important because this factor should be applied to the Weighted Average Daily Membership which is weighted by all of the other factors that add cost to educating a typical student as proposed in the new main formula. This recommendation is based on the understanding that all programs listed on the “Illustration for new Main Formula” are more costly to deliver in a smaller school district because of the inherent loss of efficiency in a smaller school.
- 3) A single weighting factor will replace four separate weighting factors for a K-12 district and two or three weighting factors for a K-6 or K-8 district. Each district’s initial composite factor should place it in an appropriate peer group in the case of small or large school districts or, in the case of medium size school districts, in the appropriate step position in a cost continuum from the large school group to the small school group.
- 4) Categories within the medium size group should reflect actual shifts in costs within the group. Trends, rather than individual district figures, should be the main determinant of the step factors.
- 5) The effect of moving from one step factor to another should be minimized by making the step differences small and frequent.
- 6) The only reason to change the weighting factor system over time should be to reflect changing trends in the relative costs of delivering education by peer group

or within the medium size district group. These changes can be observed by DPI over time from data analysis.

Recommendations

- 1) The weighting factors for all school districts should be established according to the following table:

K-12 Weighting Factors by School District Size Category

A district with Base ADM equal to or greater than:	AND	With ADM less than	FACTOR
0		185	1.25
185		200	1.24
200		215	1.23
215		230	1.22
230		245	1.21
245		260	1.20
260		270	1.19
270		275	1.18
275		280	1.17
280		285	1.16
285		290	1.15
290		295	1.14
295		300	1.13
300		305	1.12
305		310	1.11
310		320	1.10
320		335	1.09
335		350	1.08
350		360	1.07
360		370	1.06
370		380	1.05
380		390	1.04
390		400	1.03
400		600	1.02
600		900	1.01
900		No limit	1.00

K-6 and K-8 Weighting Factors by School District Size Category

A district with Base ADM equal to or greater than:	AND	With ADM less than	FACTOR
0		125	1.25
125		200	1.17
200		No limit	1.00

- 2) The Weighted Pupil Unit calculation for each school district should be for the best case result and a guarantee should be provided that the Weighted Pupil Units are no less than that provided by the highest possible number of ADM in the next category with a higher weighting factor.
- 3) After a consolidation of two or more school districts, each student should receive the school size weighting factor they would have received prior to consolidation for the four school years following consolidation. In the fifth year following consolidation, each student should receive their former weighting factors less $\frac{1}{3}$ of the differential from their new weighting factor. In the sixth year following consolidation, each student should receive their former weighting factors less $\frac{2}{3}$ of the differential from their new weighting factor. In the seventh year following consolidation, the weighting factor should be established according to the table. For simplicity the Department of Public Instruction should establish a blended historic weighting factor at the time of consolidation to be used throughout the transition years.

Legislation Required

- 1) A new section establishing the new weighting factors for school size.
- 2) Repeal all former sections dealing with weighting factors.
- 3) A new section establishing a phase-in period for school districts after a consolidation.

EQUITY PAYMENT

Background:

North Dakota lawmakers have long recognized that disparities exist among the state's school districts in the financial resources available to deliver an education program. The "mill levy deduct" provision was enacted in the 1960's as a first attempt to redirect some state funds from property rich districts to property poor districts. The program has had limited support over a long period of years primarily because approximately half of all school districts were being asked to contribute a portion of their pro rata share of state financial support to less fortunate school districts. Another weakness has been the fact that mill levies and taxable valuations generally have risen at a faster rate than the mill levy deduct has risen. In other words, the amount of wealth equalization achieved in relation to the amount needed has actually declined over time. Recently an automatic escalator has been enacted requiring an increase of 3 mills per year in the deduct. At that rate it would take fifty years to equalize all of the statewide average general fund levy of 190 mills.

Another equity measure was enacted in 1995 that attempted to provide extra state financial support to the most needy school districts. It is called the Supplemental Payment Plan. It provides an equity payment to any school district that is below the statewide average valuation per student and is below the statewide average in spending per student. In order to recognize local taxing effort, the formula is based on deficient valuation times mills actually levied over 150 mills. This plan is effective at targeting the most needy school districts but in its present form it has certain weaknesses: first, it provides less than half of the funding prescribed by the formula; second, the formula itself recognizes only a portion

of the mill levies (out of 210 mills levied only 60 mills are used in the computation, for example); third, spending per pupil is used as a measure of additional wealth, but some rich districts may spend less and some poor districts may spend more than the state average per student; and fourth, the formula only qualifies 23 school districts or just over 10% of the total number of school districts.

Principles for Change:

- 1) The mill levy deduct should be discontinued because it is viewed as a “tax” on wealthier districts and will never receive the necessary political support to provide a comprehensive program of equitable and adequate school funding.
- 2) The Supplemental Payment Plan should be replaced with an Equity Payment Plan. Such a plan would offset the loss of revenues suffered by any school district whose imputed taxable valuation per student is below 90% of the statewide average imputed valuation per student by paying out the revenue lost due to their deficiency in imputed taxable valuation.
- 3) Calculations made to determine the Equity Payment should include mineral income and tuition income by imputing these categories of cash revenue into an Imputed Taxable Valuation per student.
- 4) The Equity Payment should be limited to the district’s own tax revenue raised, i.e. Taxable Valuation times General Mill Levy. However, school districts with unusually low amounts of taxable property should be given an assumed minimum amount of taxable valuation and an assumed mill levy.

- 5) Equity payments should be adjusted in order to discourage districts with low Imputed Taxable Valuations per student from continuing to operate with General Fund mill levies below the statewide average mill levy.

Recommendation: (Refer to the chart and number key on page 27, “Illustration of Equity Payment Plan.”)

- 1) Establish an Equity Payment Plan that uses Imputed Taxable Valuation per student as the basis for comparing available resources among districts. Under this proposal, Imputed Taxable Valuation is the taxable valuation of real property plus a theoretical valuation created by dividing 75% of the district’s other cash revenue from minerals and tuition by the property tax rate of the district. The entire amount of other revenue is not used because of the added difficulties of educating large numbers of transitory students.

EQUITY PAYMENT ILLUSTRATION
(Based on Dickinson School District Prior Year Data)
Revised

Key Statewide Information

1.	Taxable Valuation (imputed)	\$1,706,813,733.00
2.	Grades PK-12 Base ADM	95,883.08
3.	Valuation Per Student (imputed)	\$17,801.00
4.	90% of Statewide Average Imputed Taxable Valuation Per Student	\$16,020.89

Dickinson School District

5.	Taxable Valuation (imputed)	\$32,519,598.00
6.	Grades PK-12 Base ADM	2,531.26
7.	Taxable Valuation Per Student (imputed)	\$12,847.20
8.	Missing Imputed Valuation Per Student (Line 4 less Line 6)	\$3,173.69
9.	Total Imputed Taxable Valuation Deficiency (Line 8 times Line 6)	\$8,033,442.47
10.	District's General Fund Mill Levy	185.00
11.	Equity Payment (Line 9 times Line 10 – up to 185 mills)	\$1,486,186.86
12.	General Fund Tax Revenue	\$5,536,169.40
13.	Equity Payment (Lesser of Line 11 or Line 12)	\$1,486,186.86
14.	Low Mill Levy Adjustment	N/A
15.	Minimum Equity Payment	N/A

The Equity Payment Plan is calculated as follows:

Key

- 1, 2, & 3) Divide the statewide total Imputed Taxable Valuation by the state's total Base ADM of grades PK-12 to determine the Average Imputed Taxable Valuation Per Student.
- 4) Take 90% times the Average Imputed Taxable Valuation Per Student.
- 5, 6, & 7) Divide the district's total Imputed Taxable Valuation by the district's Base ADM of grades PK-12.
- 8 & 9) If the school district's valuation per Base ADM (line 7) is less than 90% of the statewide average valuation per ADM (line 4), calculate the total Valuation Deficiency by multiplying the difference in per student valuation (line 8) times the district's Base ADM (line 6).
- 10 & 11) The Equity Payment is the Valuation Deficiency (line 9) times the district's general fund levy (limited to 185 mills).
- 12 & 13) Finally, the Equity Payment may not exceed the school district's annual proceeds from property tax, namely their taxable valuation times their general fund mill levy.
- 14) For districts levying less than 185 mills general levy, the Equity Payment is reduced by an amount equal to 185 mills times the Total Imputed Taxable Valuation of the district.
- 15) For districts that are below 50% of the statewide average in Imputed Taxable Valuation per student, establish a minimum equity payment

not subject to the limitations set forth in line 12 calculated as follows:
20% of the statewide average Imputed Taxable Valuation per student
times the district's Weighted Pupil Units times 185 mills.

- 2) Appropriate \$18,500,000 per year in state general funds to cover the cost of the Equity Payment plan.

Legislation Required:

- 1) Repeal sections relating to mill deduct and the Supplemental Payment Plan.
- 2) Write a new section to reflect the provisions of the new Equity Payment Plan.

SPECIAL EDUCATION

Background

On August 31, 1982, a ruling was issued by Judge Bruce Van Sickle from U.S. District Court in the case ARC vs. the State of North Dakota finding that the State of North Dakota had not met the rights of disabled citizens under the U.S. Constitution. Among other findings it stated that developmentally disabled children of school age were not receiving their right to a proper education comparable to the education provided to other children. It also stated that any special accommodations necessary for the education of disabled students must be provided without exception, and soon thereafter these findings were affirmed by federal law. This requirement for special accommodations is known as “Special Education” and has been a distinct program supported by federal and state funds since that time.

Initially the state developed a program for special education based on a unit reimbursement system as well as contract reimbursements for high cost students. This approach was in use from the mid seventies until 1995.

Eventually, certain complaints began to surface with this system. First of all, the amount of administrative work and paper shuffling expanded as school districts were required to describe and prove the amount of financial support needed for each child. School districts were generally motivated by the fact that any services not funded by the state and federal government had to be picked up by the local district.

Another complaint was that school districts received reimbursements without regard to the number of students being served. It was primarily an inequity in the size of the units.

Therefore in 1995 the special education funding formula was changed. It allocated 25% of the available state funds to the cost of contracts covering services for the severe cases of disability. The other 75% of available state funds was distributed proportionately to school districts on the basis of ADM. The principle behind this funding system is that if the costs of the contract reimbursements are fully covered, then the percentage of less severe special needs students in a given population of school age children will over time be roughly equal. In the 2005 Session the proportion was adjusted to approximately 70% for ADM and 30% of state funds for contracts.

In 2006 the American Institute for Research conducted a study of special education services in North Dakota by Dr. Tom Parrish and Dr. Jennifer J. Harr. Their study found that the distribution of funds by ADM for the non-contract side of the formula was the preferred method and in fact should be merged with General Fund appropriations for greater flexibility, better integration of general and special education services, and therefore greater equity overall.

The Commission has affirmed the Parrish-Harr recommendation to use a merged ADM distribution system for the non-contract part of the formula. In arriving at this conclusion, the Commission itself conducted an analysis of the allocation of ADM funds. The state's current reporting system could be used to classify students on the ADM side of the formula into three categories: Mild, Moderate, and Severe. A test was conducted in 2006, in which a greater weight was given to the Moderate category and the greatest weight was given to the Severe category. The cost of this blended funding approach was then compared to the amount of funds that would be received on a straight "dollars per eligible

ADM” allocation of the same amount of state funding. The Commission found that the dollar differences between the two formulas were not significant as a percentage of any district’s funding allocation.

A further problem with categorization of students is the reward for more severe labels and the inequity of assigning the same cost across a whole range of disabilities. The consultants’ conclusion was that the state’s current ADM distribution system may be as effective as any other method. An ADM system creates no incentive to identify students for Special Ed, and there is no higher funding for one form of placement over another. However, the consultants went on to say that the state’s funding of this part of special education is almost certainly inadequate to meet the actual needs of the non-contract special education students.

For the other part of the state’s Special Education system, the so-called contract side of the formula, Dr. Parrish and Dr. Harr recommended that the state pay 90-100% of the excess costs of educating the most costly one percent of special education students in the state. This assumes a smaller number of students (approximately one-half the number of students that currently qualify for excess cost reimbursement), and is intended to target the most severe 1% of all cases. However, it does guarantee full payment of “excess costs” by the state where the state currently pays only to the extent of the availability of funds. In certain cases, the reimbursement may have been as low as 17% of district costs.

In order to set the excess cost liability to the state, the consultants also recommended that districts accept more of the base liability for student contracts. Their report suggests that the district through Special Ed Units, cover up to 4.5 times the state average per pupil

cost of school-placed students rather than the 2.5 times today. One of the stated benefits of this approach was that it would greatly reduce the amount of paperwork required to file claims for state reimbursement.

The Commission recommends continuing the current policy of the state's reimbursing excess costs over 1.0 times the statewide average cost per pupil for agency-placed students and henceforth guaranteeing full payment.

The study also recommended measures to control costs of agency placed contracts and high cost contracts. Their proposal is an audit team to test the reasonableness of provider costs, review placements for appropriateness, and separate accurately education costs from other costs.

Finally, the study recommended that the Special Education Units be aligned over time with other education service entities (JPA's).

Principles for Change

- 1) In regard to the distribution of state funds to non-contract special education students, the Commission specifically recommends merging Special Education ADM distributions with general education ADM distributions. After establishing a target percentage for Special Education as a percentage of total education funding, the goal should be to move to the target percentage over time. The greatest equity results from full flexibility among funding sources, integration of general and special education services, and the elimination of competition for funds between the two constituencies.

- 2) For contract special education students, the state should guarantee payment of 100% of the excess costs of the most costly 1 percent of the special education population. This would provide “catastrophic coverage” so to speak to protect school districts from large variations in liabilities for the most severe cases. This protection provides equity by eliminating the necessity for budget reserves to cover the uneven and unexpected charges for these highest cost students. In order to guarantee reimbursement of these costs the legislature should devise a mechanism to ensure that funds are available for this purpose.
- 3) In order to ensure full funding of all contracts, the threshold to qualify for excess cost reimbursement of school-placed students should be adjusted to result in the most severe 1 percent of the Special Education population being fully covered by the state.
- 4) It does appear that valuable financial resources are being pulled away to the agency placed contracts and the high cost contracts. Rather than establish a costly audit staff with no real authority, the legislature should establish an effective means of cost control for these services.
- 5) Over time Special Education Units should be made more efficient. They should be fewer in number and should align themselves with other education service entities for better coordination and equitable distribution of all education services.

Recommendations

- 1) The Commission recommends that the legislature merge Special Education per student payments with general education per student payments, and raise the Special Ed percentage over time. The consultants may be correct in saying that the current funding level is inadequate for most school districts, and the Commission recommends an increase of \$3 million in state funds for ADM distribution above the amount appropriated for the 2005-2007 biennium. This would bring the funding level from \$37,000,000 to \$40,000,000 per biennium (including funds for Gifted and Talented programs).
- 2) The Commission recommends that the legislature guarantee the excess costs incurred by school districts in serving the 1 percent most costly students in the special education population. In order to guarantee these funds, the following steps should be taken in order: 1) appropriate an amount that accurately reflects the forecasted cost of serving these students and reimbursing 100% of the excess costs to school districts; 2) if this amount proves to be deficient, make up the shortfall through a first claim on any surplus state aid available at the end of the biennium; 3) if there are inadequate surplus funds available, make up any shortfall with a special authority to draw funds from the Bank of North Dakota and present a deficiency request to the 2009 Legislative Assembly. Overall the Commission recommends an increase of \$1 million in state funds for special education contracts over the amount appropriated for the 2005-2007 biennium. This would bring the funding level from

\$15,500,000 to \$16,500,000 in state funds per biennium. The Commission recommends that the legislature should raise the threshold payment required of school districts to the level, currently estimated at 4.5 times the statewide average cost per pupil, necessary to limit the “excess cost” pool to the most severe 1 percent of students under school-placed contracts.

- 3) The Commission recommends that the legislature require the Department of Public Instruction, in cooperation with the Department of Human Services, to develop a schedule of reasonable reimbursement rates for providers of education services and DD services. The Individual Education Plan for each client must include regular evaluation of the appropriateness of the placement, the reasonableness of the amounts being charged, and a separation of the costs of education services from the cost of DD services. Beginning July 1, 2008 the Department of Human Services should provide appropriate reimbursement for all identified DD services.
- 4) The Commission recommends that the legislature reduce the number of Special Education Units in the state. By June 30, 2009 there should be approximately 18 Special Ed Units because greater equity can be achieved by forming larger pools of funds for a region. This is desirable not only because of the greater flexibility to move funds to the greatest need, but also because of the efficiencies of a larger entity and the resulting cost savings. Eventually the number of Special Education Units will average out to two Special Ed Units for every educational association under joint powers agreement (JPA).

At that time Special Education Units should be encouraged to align themselves with JPA's to coordinate and enhance the delivery of all education services.

Legislation Required

- 1) In the budget bill for the Department of Public Instruction, \$40,000,000 would be included in the total amount appropriated for per student payments, of which \$400,000 would continue to be earmarked for Gifted and Talented programs. In addition \$16,500,000 should be reserved in the total State Aid to Education appropriation for Excess Costs beyond the district's liability for contract services. The narrative should specifically provide that any shortfall in the appropriation should be covered first by surplus State Aid dollars and then authority to draw from the Bank of North Dakota as needed.
- 2) Legislation should be introduced requiring the Department of Public Instruction to develop a schedule of allowable cost reimbursement rates for providers of education services for agency placed contracts and for high-cost contracts. This should be coordinated with the development of a reimbursement schedule for DD services by the Department of Human Services for the same non-profit providers. The measure should provide that effective July 1, 2008 billings for education services will be forwarded to the Department of Public Instruction and billings for non-education services must

be forwarded to the Department of Human Services and the two categories must be accurately separated.

- 3) Agency-placed regular education students and “state responsible” students will continue to be funded out of the total State Aid funds appropriated.

CAPITAL IMPROVEMENT EQUITY

Background

A school funding lawsuit in South Dakota found that some school districts did not have adequate tax bases to finance school capital improvements. All school districts sooner or later face the challenge of a major school remodeling or even an entirely new school building regardless of whether the enrollment in the school district is growing or declining. South Dakota is now under a court order strictly in this area.

The typical method of financing capital improvements is to assess a Building Levy on the taxable property in the school district. The problem of inadequate taxable valuation in a district is compounded when a building project is being considered because there is probably already a relatively high General Fund levy on the district's property and patrons or board members are reluctant to raise levies even higher for improvements. Even when a levy is passed in a low valuation district, it takes more mills over a deficient tax base to raise the same amount of money as an average district could raise.

Several school districts in the state have shown resourcefulness in this area by going to their city councils for help from a citywide sales tax for school improvements. Although school boards should be praised for their creativity in this regard, they demonstrate that there can be difficulties in assessing more taxes in districts with limited tax bases, and obvious disparities would exist if school districts had to rely on the varying amounts of taxable sales within their boundaries. The state's current program to provide low interest loans to qualifying school districts has often been short of funds to meet the needs of low tax base districts.

A second and opposite problem has emerged over the years in regard to capital improvement decisions. Some school districts with relatively generous taxable valuations have found the opportunity for capital improvements almost too easy. In the 1970's some districts were seen making large investments without regard to enrollment outlook or proximity to other facilities. The legislature decided to delegate authority to the Department of Public Instruction to require approval for any school expansion or building project pending a review of long-term need and other options. The greatest value of this requirement has been as a deterrent against hasty decisions by uninformed school boards.

A third problem has been the tendency for school districts with declining enrollment to view their future outlook as a competition for survival. Anecdotes have been heard of school patrons hoping for the decline of a neighboring school in hopes that its children would eventually be forced to attend their school. This state of affairs actually postpones any possibility of consolidation and prevents any opportunity for joint future planning by two or more school districts.

Principles for Change

- 1) The requirement for school districts to gain approval from DPI for expansion and building projects should be continued to prevent any unwise investments.
- 2) The current evaluation system for school districts contemplating a remodeling, an expansion or construction could be used with new equity criteria for a needs test for an Equity Program for Capital Improvement. Qualifying school districts would receive loan funds at discounted interest rates to cover the majority of the

- costs of the project. The greater the deficiency in taxable property the greater the equity incentive that would be offered. The Department of Public Instruction would continue to manage guidelines for these funds, and a 30 year expected project life should be required as a minimum for any project.
- 3) A Capital Improvement Assistance program is needed for two or more school districts that are considering reorganization and are willing to plan together the future capital spending that will be required by their merged future. Very significant incentives should be provided according to the number of districts involved, the number of ADM involved, and the number of square miles involved. The state has no mandatory requirements whatsoever for school consolidation. However, deficiencies in both equity and adequacy will arise as declining enrollments take schools below the sufficient size needed to provide a high quality, multi-faceted education. In the absence of mandatory minimum school size, incentives are the best way to help school districts manage these dramatic changes.
- 4) Deferred maintenance should be addressed whenever a surplus of state funds develops due to unanticipated revenue growth.

Recommendations

- 1) The Commission recommends that the legislative assembly enlarge and enhance the state's current policies into an Equity Program for Capital Improvement. Eligible schools should receive discounted loan funds from the Coal

Development Trust Fund for the remodeling, expansion, or construction of capital improvements that meet the screening process established by the Department of Public Instruction. Eligible schools should be separated into two incentive categories:

- i) For school districts receiving equity payments under the new Equity Payment formula and having a taxable valuation per student up to \$2,000 below the statewide average valuation per student:
 - a) Up to \$7,000,000 of loan funds, or 70% of all project costs, whichever is less;
 - b) Interest discounts of 50 to 200 basis points off the cost of funds depending on a scoring system;
 - c) Principal repayment terms up to 20 years.
- ii) For school districts receiving equity payments under the new Equity Payment formula and having a taxable valuation per student more than \$2,000 below the statewide average valuation per student:
 - a) Up to \$8 million of loan funds, or 80% of all project costs, whichever is less;
 - b) Interest discounts of 50 to 200 basis points off the cost of funds;
 - c) Principal repayment terms up to 20 years.

Borrowing authority from the Coal Development Trust Fund will need to be increased to \$50,000,000 from \$40,000,000. Minimum eligibility for any project's

participation in the Equity program for Capital Improvement should be set at \$1,000,000 and with an expected project life of at least 30 years.

2) The Commission recommends the legislative assembly enact a capital improvement assistance program, perhaps titled “Schools for the Future”, for two or more school districts willing to jointly plan future infrastructure as part of a reorganization. The plan must receive approval by the Department of Public Instruction for useful life, enrollment outlook, and strategic location. School districts meeting the necessary criteria would be eligible for the following incentives:

- i) Up to 300 basis points of interest rate buydown on principal of up to \$13.5 million of local school bond issues or 90% of all project costs, whichever is less;
- ii) The percentage of project costs eligible for loan funds should be determined by a formula as follows:
 - 1 percentage point for every 10 students added (capped at 50%)
 - 5 percentage points for each school district involved
 - 5 percentage points for each added 100 square mile increment
- iii) Interest rate buydown payments on Bond issues with up to 30 year maturities;
- iii) Interest rate buydown payments will be made directly to the new school district from an appropriation in the DPI budget bill. Funds for the

appropriation may be drawn as needed from the interest on the
Foundation Aid Stabilization Fund.

- 3) If state revenues exceed projections by \$30,000,000 or more at the beginning of the 2008 or 2009 fiscal year, \$10,000,000 should be appropriated and distributed to school districts for deferred maintenance.

Legislation Required

- 1) A Bill should be adopted that clarifies legislative intent with regard to school capital improvement loans being drawn from the Coal Development Trust Fund. Specifically, the loan funds should be targeted to needy school districts as defined by the Equity Payment formula with the largest incentives going to the most needy districts. Legislators may wish to leave some details of the incentives to rule-making authority. Minimum project eligibility should be set at \$1,000,000 and with an expected project life of at least 30 years. Borrowing authority from the Coal Development Trust fund will need to be increased to \$50,000,000.
- 2) The Bill should also include a section that authorizes the Department of Public Instruction to establish an incentive program for two or more school districts that jointly plan and carry out capital improvements as part of a consolidation. Specifically, the incentive should be interest rate buydown funds paid to the school districts directly to help service local school bond issues. The amount of the incentive should increase as the number of participating students, school districts, and square miles increases. Legislators may wish to leave some details of

the incentives to rule-making authority. Specific authority should be granted to DPI to draw funds from the interest on the Foundation Aid Stabilization Fund within the limits of legislative appropriation.

- 3) A Bill similar to SB 2023, introduced in the 2005 Legislative Session, should be introduced again and adopted.

CAREER AND TECHNICAL EDUCATION

I. Background

- 1) Currently the State Board for Career and Technical Education receives approximately \$10 million each biennium to support various programs in career and technical education around the state. These funds are augmented with \$9,500,000 in Federal funds and are used as a cost share incentive to encourage school districts to establish and deliver career and technical education.
- 2) Cost share percentages vary by program. Comprehensive Occupational programs in regional cooperative high schools receive the strongest reimbursement for their Area Career and Technology Centers at 38% of all approved costs. By contrast Instructional Salaries and Extended Contracts at individual high schools earn a cost share of 25%.
- 3) Other programs operated through the State Board are Family and Consumer Sciences, Technology Education, Career Development, Adult Farm Management, and Cooperative Cost Sharing.

II. Principles for Change

- 1) Career and technical education funding is not disbursed uniformly across the state. School districts must provide the majority of the funds required. Therefore, school districts with greater financial resources tend to have more opportunities to offer CTE programs, and districts with sufficient numbers of students participating tend to be better able to achieve the necessary efficiencies to run these programs. However, it is interesting to note that the presence or

absence of CTE programs seems to be primarily a function of the level of appreciation for Career and Technical Education in a given school or group of schools.

- 2) Past attempts to establish Area Career and Technology Centers have met with only partial success. There appears to be two major reasons for this fact: one, the cost share incentive for Area Centers has not been strong enough; and two, there has been no financial assistance for the upfront cost of establishing a new Area Career and Technology Center.
- 3) Once a statewide program of Career and Technical Education is established that has the capability of offering opportunities to 90% of the high school students through various means, then policymakers can begin to discuss the overall level of state funding required to provide an adequate statewide vocational education program.
- 4) All Area Career and Technical Education Centers should coordinate their programs with regional Economic Development programs and with regional Workforce Training programs.
- 5) To the extent possible, new and existing Area Career and Technical Education Centers should coordinate with JPA's in the delivery of career and technical education services. This cooperation should include administration and governance.

III. Recommendations

- 1) The legislature should improve the uniformity of Career and Technical Education across the state by promoting the development of more regional Centers for CTE and more cooperation generally among schools.
- 2) Specifically, the legislature should increase dramatically the funding incentives for Area Career and Technology Centers and other cooperative delivery techniques for CTE programs. The Legislative Assembly should add new funding (\$800,000) and ask the State Board for Career and Technical Education to reprioritize funding from other existing programs (\$500,000).
- 3) In addition, the legislature should provide pilot program funding to the State Board to defray the start-up costs of two new Area Career and Technology Centers. These funds (\$1,200,000) should be awarded on a competitive basis to the two projects according to the number of new programs and the number of new students participating. State funds for the pilot projects should reimburse 75% of the approved costs with 25% provided by the participating schools of JPA. Priority should be given to JPA's that propose an Area Center serving most of the JPA members. In those cases, the cost of an administrator may be included. It is envisioned that the first year of the biennium will be dedicated to awarding the pilot projects' grants and completing planning. In year two, the majority of the funds will be expended.

- 4) The majority of the new and rededicated budget funds that are provided for Area Career and Technical Education Centers and other cooperative delivery strategies (\$1,300,000) should be used for incentives such as additional cost share for Centers that improve regional impact through such things as transportation to central facilities with shared equipment, outreach delivery through online education and interactive video, and outreach through mobile labs.
- 5) All Area Career and Technical Education Centers should be organized to participate with the city, county, and regional economic development programs.
- 6) All Area CTE Centers should be organized to participate with all local and regional Workforce Training initiatives.

IV. Legislation Required

- 1) The budget bill for the State Board of Career and Technical Education should include a line item for new pilot Area Centers. Statements of Legislative Intent should be written regarding the amount of funds intended for Area Center and other cooperation incentives, as well as guidelines regarding the use of the pilot project funds.

EDUCATION ASSOCIATIONS UNDER JOINT POWERS AGREEMENTS (JPA's)

Background

In the 2003 legislative session JPA's were endorsed by lawmakers as a way for school districts to obtain education services and administrative services by means of regional cooperation. A list of approved services was developed, and a system of state incentives was established to cost share with JPA's on the basis of the number of services offered to member school districts. JPA governance consisted of a school board member from each district, and the budget and scope of activity was left entirely to each JPA. State funding for 2003-05 was \$250,000 in contingency funds. In 2005 the legislature saw that JPA's were functioning well and funded the cost share program with a General Fund appropriation of \$1,000,000 and a contingent appropriation of an additional \$1,000,000 from any surplus Foundation Aid funds at the end of the biennium. JPA's are expected to receive these funds in the 2005-07 biennium.

Presently the state has 9 JPA's covering 94% of the state's enrollment. By the time of the 2007 Session, this may be as high as 98%.

Principles for Change

- 1) After much discussion the Commission has come to the conclusion that JPA's are a vehicle for the provision of both equity and adequacy at the district level. As enrollment continues to decline and as school districts continue to insist on operating their shrinking schools, the provision of certain parts of an "adequate" education and the achievement of operating efficiency can only be obtained

- through a regional service delivery option. The legislature has repeatedly voted against establishing a minimum school size.
- 2) With enrollment projections indicating that North Dakota's Class B Schools face the loss of one third of their current enrollments over the next 6 to 9 years, JPA's may be the only politically acceptable solution to insure an adequate education for students in these schools. Since the cooperation of all schools, large and small, is required to make regional service entities truly effective, there is a strong case to be made for developing partnerships between locally governed regional units and the state in order to insure an adequate education for all students, regardless of school size. These partnerships should be supported by incentive funding to insure the development of effective, comprehensive regional service entities.
 - 3) Generally people seem to agree that JPA's have great potential for a state like North Dakota. As the Commission discussed the future challenges of delivering Special Education and Career and Technical Education statewide, it heard time and time again that JPA's should be considered as a vehicle for service delivery in the future. Certain recommendations of the Commission in this report were made in contemplation of moving toward service districts that would be compatible in the future if policy makers wish to take advantage of synergies.

Recommendations

- 1) The Commission recommends that the General Fund appropriation for JPA's be increased from \$1,000,000 to \$2,000,000 to provide increasing support for this expanding and promising new program.
- 2) The Commission recommends that JPA's once again be eligible for \$1,000,000 in contingency funds from surplus Foundation Aid at the end of the 2007-09 biennium, second only in priority to the excess cost requirements on the contract side of Special Education.
- 3) The Commission recommends that the chairmen of the various JPA's form a working group and make their wishes known directly to legislators and other policy makers.

Legislation Required

- 1) The funding line for JPA's should be increased by \$1,000,000 over the 2005-2007 amount and the contingency language for an additional \$1,000,000 should be included, bringing the total support to \$3,000,000.

MOVING TOWARD AN ADEQUACY-BASED SCHOOL FUNDING SYSTEM

Background

- 1) In North Dakota there currently exists a number of statutory requirements for K-12 education. Section 15.1-21-01 provides for a minimum curriculum requirement for all students. Section 15.1-21-02 requires 23 units of specified course instruction to qualify as an approved high school.
- 2) North Dakota also has various requirements for teacher qualifications. Chapter 15.1-13 establishes an Education Standards and Practices Board that oversees the licensure of teachers and requires compliance with several state and Federal laws regarding teacher qualifications. To be licensed, rule 67.1-02-02-02 provides that every teacher in North Dakota must have a minimum of a bachelor's degree from an approved teacher program and appropriate major areas of study.
- 3) North Dakota state statute also outlines specific requirements for the awarding of a high school diploma. These are included in Section 15.1-21-02.1.
- 4) In regard to the amount of classroom time that each student must receive in any calendar year, North Dakota law is very specific. Section 15.1-06-04 requires 173 full days of instruction, which are at least 5 ½ hours long for elementary students and at least 6 hours long for high school students.
- 5) Finally, aside from all of the various requirements of state law, North Dakota supports through its funding policies a wide range of programs that are not required by law but are currently considered by state policymakers to be

important enough to receive ongoing state financial support. These programs include half-day Kindergarten, Alternative high school, summer school, English as a second language, supervision of home-based instruction, Migrant summer school, Extended School year, and transportation.

Principles for Change

- 1) Beyond the statutory requirements and funding policies of the State of North Dakota, it could be argued that there are a number of “expectations” of school districts that remain undefined in any formal way but nevertheless are assumed to be prevalent in almost all school districts. It should be the goal of the Legislature to review these public expectations on an ongoing basis and continually review which of these should be included in the state’s school funding program. Some of these are as follows.
- 2) Class size. Research indicates a strong correlation between class size, or student-teacher ratio, and the subsequent educational progress of students, especially in the early grades (K-3). Policymakers should determine a maximum number of students per teacher across the various grade levels, and identify adequate funding meet this standard.
- 3) Teacher quality. Research indicates that teachers with more training and more experience do improve educational outcomes generally. Policymakers should ensure that adequate resources are identified to fund a prototypical teaching staff with varying levels of qualification and experience in every school district.

- 4) Special education. Federal law requires that all students with disabilities be provided the same educational opportunity as other students in the “least restrictive appropriate environment”. It has fallen to the states to ensure that the combination of Federal, State and to the extent available, local funds add up to an adequate amount of resources to meet the requirements of Federal law and Federal Court rulings. The Legislature should conduct a study to determine the typical spending pattern on special education across a sampling of districts and analyze the state’s relative share of these costs.
- 5) Curriculum. Career development specialists as well as the popular media, have arrived at a general consensus that many of the best job opportunities in the future will require the availability of instruction in advanced Math and Science as well as formal instruction in foreign language. Legislators should review these changing expectations in school curriculums over time and make policy decisions that coincide with the expectations of the general public. Once these policy choices are determined, legislators should identify the means by which all school districts have adequate resources available to fund these course requirements.
- 6) Administration and operating expenses. All expectations of a school district, whether required by law in statute or implied by program rules, should in aggregate be analyzed for total cost and then compared to the aggregate financial resources available to every school district.

Recommendations and Legislation Required.

- 1) The Legislature should assign the Commission to study in the 2007-09 interim the relative costs of all education programs considered necessary to an “adequate” education and determine appropriate weighting factors for each category of program.
- 2) The Legislature should ask the Commission to report any appropriate changes or additions to the statutory and programmatic requirements for a minimum adequate education to an interim legislative committee selected by the Legislative Council.
- 3) The Legislature should assign the Commission to recommend within a reasonable range the funding needed to provide an education that covers all of the necessities of a K-12 education. This range of costs should be compared district by district with all funding sources, including local, state and federal funds.
- 4) The Legislature should instruct the Commission to create a funding model whereby state funds are adjusted to availability of local and federal resources. Minimum and maximum funding percentages for each funding source should be analyzed.
- 5) Finally, the Commission should study how much difference exists between the funding formula adopted at the end of the 2007 Legislative Session and a model formula based on identified education necessities for an “adequate” education and funded by a mix of revenue sources.

Adequacy-Based Funding Formula
What Might It Look Like?

- 1) After the analysis is completed of the components of an “adequate” education and after the Commission considers potential funding levels for those components, it might be possible for the Commission to suggest a spending level per ADM that it would consider “adequate” to provide the necessities of a K-12 education.
- 2) The second step would be to apply all weighting factors to the base distribution. Obviously, there will be wide variation from district to district.
- 3) The final step in the process would be to determine how the spending would be financed from all the available sources. The sources fall into five categories: federal funds, property tax revenue, county income, tuition income and state funds.
- 4) Federal funds are in some cases a significant source of income for a school district. However, because of federal laws and rules, it may be necessary to limit the amount of federal funds counted in the formula to a certain percentage of the total funds required.
- 5) The amount of outside income would probably be counted dollar for dollar toward the total funds required.
- 6) The property tax contribution might be required to constitute a minimum amount per WPU as well as a maximum amount. For instance, the Commission might recommend a minimum mandatory mill levy. If the mandatory levy generates more dollars than necessary to generate the target funds per WPU, the Commission might recommend that the excess funds be “re-captured” and contributed to other state

funds available for K-12 education. The Commission might recommend that the contribution from local property tax be limited to a certain maximum general fund tax levy. However, a limited excess levy might be recommended that would not count toward the “adequacy target,” but would require a majority vote of the electors in the district or a 2/3 vote of the school board. Over time, the Commission might recommend that the mandatory minimum and maximum levies could come together.

- 7) Finally, the concept is that the state funds would make up any deficiency in the funds available to meet the “adequacy target.” All of these scenarios are presented as “what if” ideas strictly to illustrate how the Commission might contribute to the process of further improving the state’s finance system for K-12 education.

The following is an illustration of a school district with multiple funding sources and how they would fare in an adequacy-based funding formula compared to the amount that would be received under the Commission’s “transition” funding formula for 2007-2009:

(Illustration)